

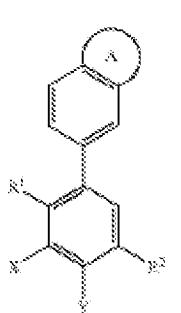
REMARKS

Claims 1 to 9, and 14 to 26 are in the application. Claim 1 has been amended. Claims 25 and 26 have been added. Support for the amendment and the newly added claims lies in the working examples of the specification. No new matter is believed added.

Rejection under 35 USC 103

It is believed that the Examiner has maintained the rejection to Claims 1-6, 9, and 15-24 under 35 USC §103 (a) as being unpatentable over the Angell et al. (WO 2004/010995) application. Applicants respectfully traverse this rejection.

The ‘995 application discloses compounds of Formula (I) wherein



wherein

[0094] A is a fused 5-membered heteroaryl ring optionally substituted by up to two substituents independently selected from C₁-6alkyl, -(CH₂)_k-C₂-cycloalkyl, halogen, cyano, trifluoromethyl, -(CH₂)_kOR³, -(CH₂)_kCO₂R³, -(CH₂)_kNR³R⁴, -(CH₂)_kC(=O)R³, -(CH₂)_kNHCOR³, -(CH₂)_kSO₂NR³R⁴, -(CH₂)_kNHSO₂R³, -(CH₂)_kSO₂(CH₂)_kR³, a 5- or 6-membered heterocyclic ring containing nitrogen optionally substituted by C₁-6alkyl or -(CH₂)_kCO₂R³, and a 5-membered heteroaryl ring optionally substituted by C₁-6alkyl;

The Examiner maintains that the ‘955 publication discloses compound encompassed within the genus of Formula (I) as claimed herein as noted by the CAS RN 651780-05-1 and CAS RN 651780-60-8.

Claim 1 has been amended to remove the A ring when “A is a fused 5-membered heteroaryl ring containing up to two heteroatom independently selected from oxygen, nitrogen or sulfur, optionally substituted by up to two substituents independently selected from C₁-6alkyl, -(CH₂)_k-C₂-7cycloalkyl, halogen, -CN, trifluoromethyl, -(CH₂)_kOR³, -(CH₂)_kCO₂R³, -(CH₂)_kNR³R⁴, (CH₂)_kSO₂NR³R⁴, -(CH₂)_kNHSO₂R³,

$-(CH_2)_kSO_2(CH_2)_mR^5$, a 5- or 6-membered heterocyclyl ring containing nitrogen optionally substituted by C₁₋₂alkyl or $-(CH_2)_kCO_2R^3$, and a 5-membered heteroaryl ring optionally substituted by C₁₋₂alkyl".

CAS RN 651780-60-8 substitutes the A ring by a methyl, and the CAS RN 651780-05-1 substituted the A ring with a heterocyclic compound substituted by a protecting group. That protecting group is technically not covered by the claims of the '995 publication but would correspond generally to the originally claimed $(CH_2)_kCO_2R^3$ substitution.

It is believed that by this amendment any potential overlap with the disclosed compound of the '995 application has been removed.

In view of these amendments and remarks, reconsideration and withdrawal of the rejection to the claims under 5 USC §103 (a) is respectfully requested.

CONCLUSION

Should the Examiner have any questions or wish to discuss any aspect of this case, the Examiner is encouraged to call the undersigned at the number below. If any additional fees or charges are required by this paper the Commissioner is hereby authorized to charge Deposit account 19-2570 accordingly.

Respectfully submitted,



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